

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

MICHELLE BROWN,	:	
Plaintiff,	:	
	:	
v.	:	No. 5:21-cv-01552
	:	
C.R. BARD, INC.,	:	
Defendant.	:	

ORDER

AND NOW, this 11th day of February, 2022, for the reasons set forth in the Opinion issued this date, **IT IS ORDERED THAT:**

1. The Motion to Dismiss, ECF No. 14, is **GRANTED/DENIED in part**.
2. The Motion is **granted as follows:**
 - A. Count I (negligence- to the extent it is based on a manufacturing defect), Count III (strict liability- manufacturing defect), Count V (common law fraud), Count VI (breach of express warranty), Count VIII (constructive fraud), and Count IX (negligent misrepresentation), are **dismissed without prejudice**.
 - B. Count II (strict liability- design defect), Count IV (strict liability- failure to warn), Count VII (breach of implied warranty- to the extent it is based on a design defect), Count XI (UTPCPL), and Count XII (unjust enrichment) are **dismissed with prejudice**.
3. The Motion to Dismiss is **denied as follows:**
 - A. Count I (negligence- to the extent it is based on a design defect or the failure to warn) is sufficient to state a claim.
 - B. Count X (NIED) is sufficient to state a claim.
4. **Within twenty days of the date of this Order**, Plaintiff may, consistent with the Opinion, file a second amended complaint as to any claims dismissed without prejudice.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge